

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CALVIN RAY HYDER, ID # 458495,)	
Petitioner,)	
vs.)	No. 3:06-CV-1588-D (BH)
)	ECF
NATHANIEL QUARTERMAN, Director,)	Referred to U.S. Magistrate Judge
Texas Department of Criminal)	
Justice, Correctional Institutions Division,)	
Respondent.)	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to the provisions of 28 U.S.C. § 636(b) and an Order of the Court in implementation thereof, subject cause has previously been referred to the United States Magistrate Judge. The findings, conclusions, and recommendation of the Magistrate Judge are as follows:

I. BACKGROUND

In August 2006, petitioner, an inmate in the Texas Department of Criminal Justice - Correctional Institutions Division (TDCJ-CID), filed a document titled "Writ of Supervisory Control" in which petitioner appears to challenge his incarceration. In September 2006, petitioner filed an application to proceed *in forma pauperis*.

Court records show that petitioner has been a plaintiff or petitioner in thirty-five cases filed in the various federal district courts in Texas. He "is clearly an abusive litigant and his conduct in this Court has consumed scarce judicial resources, slowing the process of other, possibly-meritorious, claims." See *Hyder v. US Attorney Gen.*, No. 2:01-MC-0005 (N.D. Tex.) (Mem. Op. filed June 27, 2002). After twice warning petitioner that he may be sanctioned for frivolous filings, the Amarillo Division of the United States District Court for the Northern District of Texas imposed a \$150 monetary sanction and barred petitioner "from filing any further new submissions in this Court

unless he first satisfies the monetary sanction assessed herein, obtains permission from a U.S. District Judge or a U.S. Magistrate Judge, and pays the filing fee for the proposed new submission.” *Id.* at 4.

II. ENFORCING PRIOR SANCTIONS

In this case, petitioner has paid no filing fee. He has provided no order from the Court which permits him to file this action. Further, he has not shown that he has paid the previously imposed monetary sanction. Such failures violate the sanction order entered in the Amarillo Division.

This Court observes and enforces sanctions imposed in the Northern District of Texas. Because petitioner has not complied with the prior sanctions imposed against him, this action should be summarily dismissed.

The Court further recommends that consistent with the prior sanctions, petitioner should be prohibited from filing any civil or habeas action in this Court unless he has obtained leave of court through a proper motion for leave, and he may not obtain leave of Court without providing proof that he has paid all monetary sanctions imposed against him. In the event that the Court receives such a filing from petitioner without the requisite motion for leave or receives a motion for leave from him that is unaccompanied by the requisite proof of payment, the Court recommends that the Clerk of the Court be directed to docket the filing for administrative purposes only and to immediately close the case. The Court should inform petitioner that, in such cases, the Court will not otherwise address or acknowledge submissions that are unaccompanied by a motion for leave or that do not show proof that the monetary sanctions have been paid.

III. RECOMMENDATION

For the foregoing reasons, it is recommended that the Court summarily **DISMISS** this action so as to enforce the sanctions entered in Cause No. 2:01-MC-0005. It is further recommended that the Court **SPECIFY** the applicable procedures as set forth herein for any future filings.

SIGNED this 3rd day of October, 2006.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on plaintiff by mailing a copy to him. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to these findings, conclusions and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. Failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE